

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 1:22-cv-24023-SCOLA/GOODMAN

KENNETH C. GRIFFIN,)
)
Plaintiff,)
)
v.)
)
INTERNAL REVENUE SERVICE, *et al.*,)
)
Defendants.)
_____)

**UNOPPOSED MOTION TO EXTEND TIME TO ANSWER OR
RESPOND TO PLAINTIFF'S COMPLAINT**

Defendant United States of America,¹ pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, moves for an extension of time to answer or otherwise respond to Plaintiff Kenneth C. Griffin's Complaint by forty-five days to Tuesday, April 25, 2023. Good cause exists for the requested extension to allow the United States time to obtain information necessary to answer or otherwise respond to the complaint. In support of this motion, the United States asserts the following:

1. Griffin sued the IRS and the Treasury Department on December 13, 2022, for damages for the alleged wrongful disclosure of Griffin's confidential tax return

¹ The complaint names the incorrect party defendants. The United States is the proper party defendant because federal agencies may not be sued without express consent of Congress. Congress has not authorized the IRS or the Treasury Department to be sued. *See Enax v. United States*, 2006 WL 1886156, at *2 (M.D. Fla. July 7, 2006) (citing *Castleberry v. ATF*, 530 F.2d 672, 673 n.3 (5th Cir. 1976)); *see also* 26 U.S.C. § 7431(a)(1) (providing that a taxpayer may bring a suit against the United States for the alleged wrongful disclosure of protected tax return information).

information in violation of 26 U.S.C. § 6103 and alleged violations of the Privacy Act, 5 U.S.C. § 552a. ECF No. 1.

2. Griffin served the United States Attorney for the Southern District of Florida on January 10, 2023. ECF No. 20.

3. The deadline for the United States to file an answer or response is March 11, 2023. *See* Fed. R. Civ. P. 12(a)(2).

4. Good cause exists to extend the United States' time to answer or respond to Griffin's complaint to April 25, 2023.

5. The United States requires additional time to obtain information from the IRS and Treasury Department regarding the allegations of the complaint. Information from the IRS and Treasury Department is necessary for the United States to evaluate the merits of complaint and to prepare a responsive pleading.

6. Additionally, the United States must coordinate its responsive pleading with the IRS, Treasury Department, and multiple components of the Department of Justice.

7. Griffin does not oppose the relief sought in this motion.

WHEREFORE, the United States respectfully requests that the Court extend time to file an answer or response to Tuesday, April 25, 2023.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A), counsel for the United States conferred with counsel for Griffin via telephone in a good faith effort to resolve the issues raised in this

motion. Counsel for Griffin advised that Griffin does not oppose the requested extension of time to respond to the complaint.

Dated: March 8, 2023

Respectfully Submitted

DAVID A. HUBBERT
Deputy Assistant Attorney General

Elizabeth N. Duncan
ELIZABETH N. DUNCAN
Virginia Bar No. 90685
ZACHARY A. GRAY
California Bar No. 291376
STEPHANIE A. SASARAK
Maryland Bar No. 1012160096
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 14198
Washington, D.C. 20044
202-514-6546 (v) | 202-514-4963 (f)
Elizabeth.N.Duncan@usdoj.gov
Zachary.A.Gray@usdoj.gov
Stephanie.A.Sasarak@usdoj.gov
Counsel for the United States

Of counsel:

MARKENZY LAPOINTE
United States Attorney
Southern District of Florida

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2023, I filed a copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification to counsel of record.

Elizabeth N. Duncan
ELIZABETH N. DUNCAN
Trial Attorney
U.S. Dept. of Justice, Tax Division